

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

JOSE OSCAR NINO,

Plaintiff,

v.

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CIVIL ACTION NO. 1:07CV56  
(Judge Keeley)

BUREAU OF PRISONS, MARTINEZ,  
Warden, BOYLES, HSA, MR. AZUMA,  
MLCP, and MR. VASQUEZ, M.S.,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On April 23, 2007, plaintiff, Jose Oscar Nino, filed this civil rights action seeking a preliminary injunction directing the defendants to transfer him to a Federal Medical Center for proper treatment of his infection. On January 2, 2008, Magistrate Judge John S. Kaul1 filed a report and recommendation ("R&R") recommending that 1) the plaintiff's claims against the unknown doctors at USP-Pollack, Mr. Smith, the unknown HSA at USP-Pollack, and the unknown doctors and other medical assistants at the medical center in Alexander, Louisiana be **DISMISSED** for lack of personal jurisdiction; and 2) that the United States Marshal Service be directed to serve a copy of the complaint, a completed summons, and a completed Marshal 285 Form on defendants Bureau of Prisons, Martinez, Boyles, Azuma and Vasquez.

The R&R informed the parties that failure to submit objections within ten days of receipt of the R&R would result in the waiver of

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appellate rights on this issue. No objections were filed.<sup>1</sup> The Court notes, however, that on January 14, 2008, Nino informed the Court, by letter, that he had received that R&R, but, because he was in transit following surgery at that time, he would contact the Court once he was returned to USP-Hazelton. The Court has received no further communications from Nino.

The Court, therefore, **ADOPTS** Magistrate Judge Kaull's R&R (dkt. no. 18) in its entirety and **ORDERS** that:

1) The plaintiff's claims against the unknown doctors at USP-Pollack, Mr. Smith, the unknown HSA at USP-Pollack, and the unknown doctors and other medical assistants at the medical center in Alexander, Louisiana be **DISMISSED** for lack of personal jurisdiction; and

2) The United States Marshal be directed to serve a copy of the complaint, a completed summons, and a completed Marshal 285 Form on defendants, Bureau of Prisons, Martinez, Boyles, Azuma and Vazuez.

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<sup>1</sup> The failure of the parties to object to the Report and Recommendation waives their appellate rights in this matter and relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).

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The Clerk is directed to mail a copy of this Order to the pro  
se plaintiff, certified mail, return receipt requested, and to  
transmit copies to counsel of record.

Dated: May 8, 2008

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE